

NEWS LETTER

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THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS PRESENTED THE PRELIMINARY REPORT ON THE ACTIONS UNDERTAKEN IN THE CASE OF THE HOMICIDES OF WOMEN IN THE MUNICIPALITY OF CIUDAD JUÁREZ, CHIHUAHUA.

Last April 7, 2003, in the city of Ciudad Juárez, Chihuahua, the Mexican National Commission for Human Rights presented a preliminary report on the activities undertaken by its visitors, about the 232 documented cases of women murdered.

The preliminary report corresponds to the actions undertaken beginning on February 11, 2003, in which complaint 555/220 was established officially by the CNDH, besides being supported by the daily information divulged in the diverse communications media, electronic and printed, through which public opinion is made aware of, that in the face of the silence on behalf of the authorities in taking care of the complaints of the relatives of the women who have been victims of violence, it has been necessary to approach different non-governmental organisms, diverse national and international law enforcement tribunals, in search of help in order to succeed in its petitions; without failing to take into consideration that, within its phrasing, the demand for the protection of their rights to legal safety, residence, and free transit are also found, such as is recognized by the Political Constitution of Mexico.

The report begins by pointing out the phenomenon derived from drug traffic, organized crime and the existence of gangs which have grown in the past few years in the municipality of Ciudad Juárez, Chihuahua, which have propitiated the increase in drug use, firearms and lack of public safety.

It is since 1993, when a series of rendering of accounts amongst rival gangs, tortures, massive executions in public places, and bodies found in car trunks begins, as well as the recurrent murder of women and the report of the disappearance of persons amongst which at least 130 women are mentioned.

The fight against traffic of drug has turned the municipality of Ciudad Juárez not only into a battlefield, but also into an environment which injures the Rule of Law, as well as creating insecurity in the population.

The Mexican National Commission for Human Rights is presently investigating the intervention from the federal area, as well as state and municipal, in the investigations on the homicides of women in Ciudad Juárez, with the help of various work teams. In this sense, and given that the investigations undertaken to date have not been able to identify those responsible for dozens of cases, the enlightenment of each and every one of them becomes urgent, in order to avoid the continuance of impunity, which is why the Mexican National Commission for Human Rights formulates the following proposals:

First. That a strategy for the prevention of crime be defined, in order to avoid the continuance of sexual crimes and murders against women in the municipality of Ciudad Juárez, Chihuahua, which necessarily must involve the three levels of government, otherwise it results less than likely that the desired results be obtained, which is why, considering that foreseen in the Public Security Program for 2001-2006, and in the General Law which establishes the cooperation bases of the National Public Safety System, on the part related to the support tasks for the prevention of crime, it is urgent that:

a) The federal, state and municipal authorities intervene, within the scope of their respective faculties, but in a coordination manner, in order to avoid the occurrence of one more murder against women in the municipality of Ciudad Juárez, Chihuahua and,

b) The public opinion be informed of the prevention tasks against said crime range.

Second. In view of the results obtained in the investigation of the murders of women in the municipality of Ciudad Juárez, Chihuahua, and the scant enlightenment of the 232 documented cases, the creation of a public organism dependent upon the federal government, which shall be responsible for the coordination of the public agencies of the federal, state and municipal governments, so that they may be given sufficient resources in order to:

a) Support the investigation tasks in the homicides and disappearance of women in the municipality of Ciudad Juárez, Chihuahua and,

b) Facilitate the way for the investigations related to the crimes which as yet have not been cleared up, be undertaken taking advantage of the technical, personal and material resources which the Mexican State has.

Third. The Republic's Attorney General receive pertinent instructions, as well as the Justice Attorney General for the State of Chihuahua, in order that the rights of the relatives of the victims of the homicides and the disappearance of women in Ciudad Juárez be instituted, so that they may become aids in the investigations already opened, and rendered them the assistance, orientation, and protection provided for the law.

Fourth. Taking into consideration that decided upon in the Cooperation Treaty on Mutual Legal Assistance between the United States of America, and the Mexican United States, it becomes urgent to formulate, on behalf of the local authorities, the request for corresponding legal assistance through the Republic's Attorney General's Office, to the authorities in charge of the investigation of the crimes in the United States of America, to be precise, in the city of El Paso, Texas, in the local as well as federal field, in the matter of the provision of documents, registration of proofs, exchange of information, and any other means of legal assistance which permits directing in a better fashion, the tasks of prevention, investigation, and persecution of the homicides and disappearances of women.

RECOMMENDATIONS

Recommendation 15/2003

April 8, 2003

Case: Mr. Juan José Guerrero Chapa

Authority addressed: Military Justice Attorney General

On March 1st, 2002, this Mexican National Commission for Human Rights initiated file 2002/580-1, in relation to the complaint filed by Mr. Juan José Guerrero Chapa, in which he declares deeds, presumably in violation to the rights to life, committed against Mr. Francisco José Flores Iruegas, as well as to the integrity, personal safety, and the legality of legal safety committed against him and Mr. Agustín Rojas Vázquez, by personnel of the Mexican Army.

From an analysis of the evidence, sufficient elements are found in order to establish the legal provenance of the harms established by the plaintiffs, upon considering that in spite of an official notice issued by the social representative of the federation of the Military Justice's Attorney General's Office, requesting their collaboration so that the personnel of the Federal Investigations Office and personnel from that Attorney General's Office, give due course to the order of locating, and presentation issued against Mr. Juan Jesús Guerrero Chapa, the afore-mentioned, without having the authority to do so, effected an operation to arrest Mr. Guerrero Chapa, in which excessive use of force, with firearms, against unarmed persons was undertaken, with the resulting loss of life of Mr. Francisco José Flores Iruegas, who was not even involved in the deeds, besides causing harm to other people's property.

Because of this homicide, the Justice Attorney General's Office for the State of México, began the prior investigation TOL/AC/1/672/2002 which for the reasons of jurisdiction, on March 1st, 2002, was sent to the Military Justice's Attorney General's Office, where the pertinent measures were taken, thus exercising legal action against Captain Abel Benjamín Corona Cárdenas, as probable person responsible for the crime of violence against the afore-mentioned persons, and causing a homicide.

From the recorded facts which integrate the Ministerial investigations several irregularities were found, and thus on April 8, 2003, the Mexican National Commission for Human Rights issued Recommendation 15/2003, addressed to the Military Justice Attorney General, in which the recommendation was made:

First. The exercise of legal action be widened in order to include Coronel Manuel Virgilio Morales Herrera, Major Juan Ramón Ramírez Martínez, Captain Abel Benjamín Corona Cárdenas, Captain Omar Corona Cortés, Captain Diego Guadalupe Ruíz Robles, Lieutenant

José Isidro Fuentes Hernández, Lieutenant Mario Alberto Andrade Ramos, Lieutenant Arnoldo Sánchez Osuna, Lieutenant Martín Gutiérrez Olvera, and Lieutenant Javier Barros Guasso, for the acts in which they were involved during the operation;

Second. The clearance of the Inspection and General Comptroller of the Army and the Mexican Air Force be broadened, in order to include all those belonging to the military, who participated in the operation;

Third. Clearance be given the Internal Control of that Military Justice Attorney General's Office, in order to act against the social representatives who intervened in the integration and the determination of investigation SC/068/2002/I, and if possible criminal conducts result from the investigation, the corresponding inquiry be initiated;

Fourth. That within the time ascertained by law, and in adequate manner, the requests for information addressed by this Mexican National Commission for Human Rights, be seen to this, in reference to the complaint files being transacted.

Fifth. Payment of the indemnity, dictated by law, be made to the relatives of Mr. Francisco José Flores Iruegas.

Recommendation 16/2003

April 22, 2003

Case: Members of the 65th Infantry Battalion in Guamuchil. Sinaloa.

Authority addressed: Military Justice Attorney General

On October 13, 2002, this Mexican National Commission for Human Rights received the official communication CEDH/P/DF/00585 undersigned by the President of the State Commission for Human Rights of Sinaloa, for the arrest, incommunicability, and torture of approximately 600 members of the National Army assigned to the 65th Infantry Battalion Headquartered in the city of Guamuchil, Sinaloa.

From the evidence which this Mexican National Commission for Human Rights acquired, it was proven that related to the integration of previous investigations, on behalf of the agent of the Special Military Public Ministry, between the days of the 9 and the 13 of October, 2002, the commander of the 65th Infantry Battalion, headquartered in Guamuchil, Sinaloa, proceeded to practice, amongst the members of said Battalion, an intensive review, making them incommunicado, and submitting them to acts of physical and psychological torture, and thus giving rise to the complaint that their legal rights were transgressed, as well as legal safety, due process to law, physical integrity, as well as personal and psychological safety, in prejudice of the members of the Mexican Army, integrants of the 65th Infantry Battalion, all the while they were subjected to arrest, no communication, intimidation, and physical torture, as well as psychological torture, by members of the Military Justice Attorney General's Office.

For this reason, on April 22, 2003, this Mexican National Commission for Human Rights issued Recommendation 16/2003, addressed to the Military Justice Attorney General, in which the recommendation was made that in accordance to its normativity, it begin an administrative investigation against the personnel of the same Attorney General's Office, which intervened in the afore-mentioned violatory acts; an investigation be initiated corresponding to the crimes resulting against the personnel of the same Attorney General's Office, which intervened in the deeds mentioned; that instruction be issued so that the personnel of the Military Justice Attorney General's Office be instructed in relation to the respect that the military must grant the Human Rights, upon application of the military rulings to the interior of the armed forces, especially on the treatment which they are impelled to grant the probable responsible, or to the witnesses of a crime, as well as undertaking the corresponding steps in order to safeguard the honor, the physical and psychological integrity, and the good name of the military personnel who collaborated in the investigations undertaken by this Mexican National Commission for Human Rights, in order to avoid any act of pressure or intimidation which could be exercised against them, keeping safe the confidentiality of the facts which allow for their identification.

DOMESTIC RELATIONS

Proposal for the modification to the Federal Code of Criminal Procedures before the Commission for Human Rights of the Republic Senate

Dr. José Luis Soberanes Fernández, President of the Mexican National Commission for Human Rights, proposed a modification initiative, to article 243 bis of the Federal Code of Criminal Procedures, effecting the protection of the professional secret journalists, lawyers, cult ministers, notary publics, technical consultants, amongst others, and in the same way, limit the goals of the actions undertaken by the Public Ministry, when they request information.

The text of the modification proposal to the afore-mentioned article, points out that they will not be obligated to declare on the information which they have received, know of, or have in their power, they being lawyers, technical consultants, notary publics, ministers of any cult, related to the confessions received in the exercise of their ministry; the journalists, in regard to names or personal identification information of the persons who provide them with information of a reserved nature, and in which they mention any

publication or communiqué; and persons or public servants carrying out a position, charge, office or profession, which by virtue of law, they must guard professional secrecy, or reserve.

The National Ombudsman indicated that the right to maintain the secrecy or the provenance of the information must be considered as a right in keeping with the safeguarding of the integrity and the work of the person who has access to the same, and that it is necessary to introduce clear legislation in criminal matters in order to give credibility to the freedom of expression and press. Also, he pointed out that when there exists the intention of limiting this right through the state institutions, by means of fear and intimidation, social development is interrupted.

Pre-release of 2,500 prisoners due to the modifications of Article 85 of the Penitentiary Code

The Mexican National Commission for Human Rights, through the Supervision Program of the Penitentiary System and Internment Centres, made public that approximately 2,500 prisoners might be freed after benefiting from the modifications to article 85 of the Penitentiary Code, which will be in effect after being published in the Official Diary of the Federation. These persons are in prison because of crimes against health, in the category of transportation of drugs, and that in many cases, it deals with poor peasants, or of chauffeurs and other employees of other loading companies, and that in truth, they are frequent victims of the network of drug traffickers.

After these modifications, the Mexican National Commission for Human Rights, must receive the complaints arising from those who have the right to request and receive these benefits, and who fulfill the requirements established in the Law of Minimum Rules for the Social Rehabilitation of persons Judged and who have not received support from the authorities.

The CNDH patronized experimental tests on the polygraph test or lie detector, in the Faculty of Psychology of the National Autonomous University of México (UNAM)

The Mexican National Commission for Human Rights believes that the use of the polygraph or "lie detector" in institutions dealing with the procurement of justice, and police corporations, as a determining factor to contracting "trustworthy" personnel, is in direct opposition to legal human rights, and legal safety.

Based upon the study " Myths and Realities of the Polygraph (psychological markers of emotional activity) ", of Dr. Benjamin Domínguez Trejo, investigator from the Faculty of Psychology of the UNAM, and advisors from the CNDH, in which it is made clear that its use manifests the grades of anxiety of a person, when he/she has been unfairly named as the author of an act which he/she has not committed, and after undertaking exercises and experimental tests in various universities and institutes of higher learning, it was demonstrated that any person can modify his/her emotional activity with four or five minutes of relaxation through deep breathing exercises, modifying the answers, almost at the will of the person being analyzed. It was proven, that although initially an excited person, nervous, pressured, reported variations in temperature and of the cardio-respiratory system in an elevated range, he/she was qualified as "not trustworthy", after an exercise of self-relaxation, through deep breathing exercises, the same person, previously trained for this, achieved the apparent lowering of the measurements and so issuing a contradictory result and that in a matter of minutes he/she was able to be qualified as "trustworthy".

FOREIGN AFFAIRS

Participation of the CNDH in the 59th sessions period of the United Nations Human Rights Commission, in Geneve, Switzerland

As in previous years, the CNDH participated in the works of the United Nations Human Rights Commission, on subject 18 on the agenda, devoted to national institutions, with the presentation of a five minute document on the main activities developed by the CNDH during the past year.

This message, presented by the Executive Secretary of the CNDH, indicates, among other aspects, that the protection of migrants, the opportune legal defense of nationals, sentences to the maximum penalty of death, and the impulse towards tolerance as a formula of respect and social co-habitation are three of the fields of protection and defense of human rights which needs greater dedication, and public compromise.

Parallel to these works, from April 14 to the 16th, the annual reunion of the International Coordination Committee ICC, took place, wherein besides analyzing the importance of the national institutions during the past year, the importance of the work undertaken by the regional networks was signaled out.

In this respect, the Mexican National Commission for Human Rights, as a secretary pro tempore of the Network of National Institutions for the Promotion and Protection of Human Rights of the Americas presented the report on the Network activities during the last year, including the conclusions reached in its General Assembly and the Workshop on the Human Rights of Persons, with Disabilities, celebrated in March of this year, in the city of San José, Costa Rica.

It is worth mentioning that the representatives of the Office of the United Nations High Commissioner for Human Rights, as well as the members of the ICC, congratulated the work and the advances obtained by the Network after only three years of having being instituted.

As part of the work plan of the ICC meeting, the election of the President and Vice-President was convoked, wherein Mr. Omar Azziman, President of the Consultive Council of the Morocco Kingdom, was re-elected as President of the ICC, and Dr. José Luis Soberanes Fernández, President of the Mexican National Commission for Human Rights, was once again elected as Vice-President.

During this reunion, the Sub-Committee of Accreditations of the ICC was renewed, finally being integrated by the national Institutions of Canadá, Denmark, Uganda and Fiji.

PUBLICATIONS

Gaceta, Official monthly publication of the Mexican National Commission for Human Rights, Number 151, corresponding to the month of February, 2003.

Rights of Visitors to the Detention Centres. México, CNDH, April 2003, Tryptic.

Disciplinary Regime and Santions in the Detention Centres. México, CNDH, April 2003. Tryptic.

Guide in order to obtain benefits of Foreseen Freedom. México, CNDH, April, 2003. Tryptic.

Music for the Rights of Boys and Girls. México, CNDH, April 2003. Compact Disc.

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